

EXTERNAL (for general distribution)

AI Index: MDE 15/48/90

Distr: GR/CO/REL SC

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21 December 1990

ISRAEL AND THE OCCUPIED TERRITORIES

ZAHER NAFEDH MAHMUD ABU SAKHA - ADMINISTRATIVE DETENTION

Zaher Nafedh Mahmud Abu Sakha (ID number 95132269) is 24-years-old and comes from Jenin on the West Bank. He was arrested on 7 August 1990 and was issued with a six-month administrative detention order. He is currently held in the Ketziot detention centre in southern Israel.

Zaher Abu Sakha appealed against his order. At a hearing which took place on 22 November 1990 the non-classified evidence revealed to Zaher Abu Sakha and his lawyer alleged that he had been an active member of Popular Front for the Liberation of Palestine (PFLP). It also alleged that he disturbed public order, wrote slogans and participated in a national parade. His order was reduced by one week. He is due for release on 30 January 1991.

Zaher Abu Sakha has spent two previous periods in administrative detention: between August and January 1989 and between August 1989 and February 1990. He has also reportedly been arrested several times for short periods, but has never been charged with of any offence.

According to medical reports Zaher Abu Sakha suffers from osteoma (bone cancer) in his left frontal sinus. He has undergone two operations, in 1984 and in 1988, in a West Bank clinic, and is apparently in need of a third operation. His doctor has recommended that he be treated in Amman University Hospital in Jordan, and has stated that his life will be endangered if he is not operated on.

Amnesty International does not have enough information to determine whether Zaher Abu Sakha is a prisoner of conscience, detained solely on account of his non-violent exercise of the right to freedom of expression and association. If this is the case, it calls for his immediate

and unconditional release.

Amnesty International is also concerned that, Zaher Abu Sakha may not have been given an adequate opportunity to exercise effectively his right to challenge his detention order. It believes that unless he is given that opportunity he should be released without delay.

ADMINISTRATIVE DETENTION IN ISRAEL AND THE OCCUPIED TERRITORIES

In Israel and the Occupied Territories, administrative detention orders can be issued by the Minister of Defence or a military commander if they believe that security reasons so require.

In Israel itself (ie excluding the Occupied Territories), administrative detention orders are issued by the Minister of Defence for up to six months, renewable. They must be reviewed within 48 hours by a District Court, which has the power to uphold, shorten or cancel the order. The detainee can petition the High Court against the decision of the District Court. The District Court is also required to automatically review the order no later than three months after the first judicial review.

In the Occupied Territories, administrative detention orders are issued by military commanders. Since March 1988 administrative detainees only appear before a military court judge if they decide to appeal against their detention order. The military court judge has the same powers regarding administrative detention as the District Court judge in Israel. Detainees can go on to petition the High Court against the decision of the military court judge.

Since August 1989 each order can be issued for a maximum period of 12 months, but can be renewed indefinitely thereafter for further periods of up to 12 months. In August 1989 an automatic judicial review was introduced if the detainee did not appear before a military court judge for a period of six months.

Since the outbreak of the Palestinian uprising in December 1987, more than 12,000 Palestinians have spent some time in administrative detention. These have included students, labourers, human rights workers, journalists, trade unionists and teachers. The vast majority have been held in a military detention centre at Ketziot, in the desert of southern Israel where family visits do not take place and conditions are harsh.

AMNESTY INTERNATIONAL'S CONCERNS

Amnesty International believes that the practice of administrative detention in Israel and the Occupied Territories violates fundamental human rights.

Administrative detention can and has been used by the Israeli authorities to detain prisoners of conscience, held for their non-violent exercise of the right to freedom of expression and association. This is facilitated by the broad formulation of the grounds for detention.

Existing procedural safeguards are insufficient to prevent abuse of the detainees' right to challenge their detention, particularly their right to be informed promptly and fully of the reasons for their detention. In many cases the first if not the

only opportunity detainees have to find out why they are detained is at an appeal hearing which they have to initiate themselves.

It takes place several weeks, sometimes months, after arrest.

Even then in almost every case detainees and their lawyers are not given sufficient information to enable them to exercise effectively the right to challenge the detention order.

Amnesty International is urging that all administrative detainees held on account of their non-violent political opinions or activities be released immediately and unconditionally, and that the others should be given an adequate opportunity to exercise effectively their right to challenge their detention -- taking into account strict safeguards aimed at protecting detainees' internationally recognized rights -- or be released.

Amnesty International is also urging the Israeli authorities to review the appropriateness and necessity of maintaining the practice of administrative detention without charge or trial. It believes that administrative detention should not be used as a substitute for, and a means of avoiding the safeguards of, a criminal justice system.